

Minutes of the Meeting of the
Maine Atlantic Salmon Commission Salmon Board
323 State Street Conference Room

Augusta, Maine
September 25, 2002

Attendance: Salmon Commission Board

Lee Perry, Chair
George Lapointe
Paul Frinsko

Salmon Commission Staff

Fred Kircheis, Executive Director
Joan Trial
Henry Nichols
Karen Bickerman
Randy Spencer

See attached attendance list (Attachment 1)

Lee Perry called the meeting to order at 1:05 p.m.

Agenda Item 1- Introductions and opening remarks

Chair L. Perry welcomed those in attendance. Introductions were made around the room.

L. Perry asked if any one present would like to add anything to the agenda. F. Kircheis asked that the Hydropower Policy be presented by J. Trial and considered by the board. This was placed under Agenda Item 8.

Agenda Item 2 – Approval of June 11, 2002 minutes

THE BOARD APPROVED THE June 11, 2002 MINUTES UNANIMOUSLY. (3-0, MOTION BY GEORGE LAPOINTE, SECONDED BY PAUL FRINSKO.)

Agenda Item 3 – Board appointment to TAC

J. Trial stated the Memorandum of Agreement for the TAC says that the Board shall appoint the State members and put forward to the Board that Mike Kinnison join the TAC in replacing John Moring. Dr. Kinnison is a Ph.D. from the University of Washington and has a Bachelor's from the University of New Hampshire. His specialty is evolutionary genetics and fisheries biology with extensive experience in Salmonid fishes and genetics and introduced populations. His special interest is rates of contemporary evolution in fishes. This fits into any number of issues that the TAC is dealing with in restoring and describing the populations within the DPS. He is willing to serve and would accept the appointment if the Board so desired. F. Kircheis added that he met Dr. Kinnison and talked with him to some extent. He would highly recommend him to this appointment.

G. LaPointe said that a motion should be made before there was any discussion. **P. Frinsko** made the motion and **G. LaPointe** seconded. **L. Perry** asked for any discussion. **G. LaPointe** asked if this would be a good addition to the balance of the Board? **J. Trial** replied that right now, for genetic advice, the TAC relies on U.S. Fish and Wildlife Service or on the other side, Irv Kornfield. This would give the TAC some balance. She believed Mike talks the language very well and will help the TAC in many ways. One proposal has been vetted through him already and he has been appointed to the Enhancement Committee, even though he is not a TAC member. There will be a discussion related to the Pleasant River and effective population size, which he has been very helpful in moving forward. She believed it would bring some balance to the genetic discussions.

L. Perry asked if Dr. Kinnison was new to the staff. **J. Trial** said that he has been at the University for about a year, in terms of appointment. However, he spent some time at Dartmouth before coming to Maine.

J. Trial added that she couldn't figure out a way to propose a name for Board consideration. At this point, **L. Perry** could write a letter to Dr. Kinnison saying that the Board would like to appoint him to the TAC. However, there was no process in place to do this. Should a policy be developed now, so that the next Board will know the process?

L. Perry asked all in favor of appointing Michael Kinnison to raise hands. The Board unanimously (3-0) appointed Michael Kinnison to the TAC. **F. Kircheis** will write the letter on the Board's behalf.

ACTION ITEM: F. Kircheis to write the letter to Dr. Kinnison on the Boards behalf.

Agenda Item 4 – Consideration of a Memorandum of Agreement regarding Atlantic salmon for the Aroostook River

R. Spencer gave the board three handouts (see Attachments 3, 4, & 5). Attachment 3, prepared by the hatchery manager at the Mactaquac facility, Trevor Goff, is of primary interest. The format is specific to his requirements for how funds are received and targeted for this program. If the requirements are not in this format, then the monies go to the general fund and don't necessarily get back to the program. This is a draft and Mr. Goff is amenable to any changes the Board may have. **R. Spencer** believes the draft presents the proposal very well and describes what both sides are to do. He apologized that the Board wasn't able to see this document sooner, but Mr. Goff was away on vacation and didn't get back until late last week.

Attachment 4 is an attempt at a Memorandum of Understanding between Atlantic salmon for Northern Maine (ASNM) and the Atlantic Salmon Commission (ASC). This was prepared by Jim Barresi and represents his interpretation of what the relationship between their group and ASC is.

Attachment 5 is another brief progress report. At the last meeting, the board discussed at some length the options for state and federal hatchery production and the potential to contribute to the broodstock program. At that time, **R. Spencer** hadn't done a lot of investigation into the private sector. There is really only one facility in Northern Maine: Gary Pickard's hatchery in Frenchville. It was recently built by an aquaculture company to rear smolts, but due to some financial and other issues, the company got out of the business and Gary's family acquired the hatchery. It is based on well water. The flow could be an issue in limiting capacity to expand. **R. Spencer** asked Gary Pickard, the owner, what he thought the feasibility of getting involved in a broodstock program for the Aroostook River and Mr. Pickard replied that his primary source of revenue at present is exporting brook trout to other states. He can do that, unlike most hatcheries, because he maintains a "Class A" hatchery rating. One of the ways he does that is by having a minimum of a three-year health history of all the fish on station. If he started to bring in egg products from sea-run fish, he would have just a one-year of history. He's concerned that it would jeopardize his "Class A" rating. Also, if we did observe a disease outbreak at Mactaquac in any given year, it would preclude him from getting any eggs for that year.

Mr. Pickard stated that the only way this would even be possible was if the State was able to enter into a long-term agreement, possibly 10 years at minimum, in order to reprogram his facility into just Atlantic salmon. He doesn't think he could do both at the same time reliably. Mr. Pickard also wanted ASC to know that the per-cost basis would be considerably more than what is proposed in the Mactaquac contract.

F. Kircheis asked if **R. Spencer** had visited these facilities with the people from ASNLM so that everyone was aware of the same discussions? **R. Spencer** replied yes.

Another site that was visited to address ASNLMs proposal to develop their own separate broodstock facility was the outlet of Squa Pan Lake – a short distance up a tributary from the Aroostook River near Masardis. PDI of Canada, a hydro facility, owns the facilities throughout the drainage, including Tinker Dam where ASC trap is run. Physically, there may be room to put a hatchery in there. However, waste treatment could be a significant issue there. Phosphorus removal becomes a big issue with these facilities and depending on the base phosphorus load in Squa Pan, it may already be close to exceeding the threshold. Evaluation of the water source was at issue as well as the potential to treat the effluent. Both these issue could have considerable impact on the cost, not only of construction, but also of operation. Based on these on-site discussions with that group, they decided that it was more than they were interested in getting into at that time. They requested that **R. Spencer** not pursue the private hatchery option at this time.

Gray Aqua Farm, a very impressive facility, was also visited in Woodstock, NB. **R. Spencer** believes visiting this facility was essential for ASNLM to show ASC a type of production techniques at facilities that they might like to incorporate into a private hatchery they would build.

L. Perry asked if the Woodstock facility was raising the fish for restoration purposes or for the commercial industry. **R. Spencer** replied for the commercial industry. They are doing some interesting things there, including some land farming type things. They are tackling some issues that the industry has wanted to solve for a long time.

L. Perry summarized by saying that ASC has followed up with the folks in Aroostook County and at this point in time, there doesn't seem to be any viable options immediately available for additional fish, except for the Mactaquac facility, at this point. **R. Spencer** agreed, saying that ASNLM also agreed.

L. Perry stated that the Board had before them draft agreements (Attachments 3, 4 & 5). His initial reaction to them was that the Attorney General's office look at them first and it would be worthwhile if the board had questions of Randy, to ask them and at least get them incorporated before we get a final agreement.

G. LaPointe said that Attachment 3, under 5.1, talks about how long records will be held and noted that there may be longer obligations under State law. He said questions didn't have to be answered right then, but there were questions needing answers at some point. Under 9.2, Termination, the Minister has a clause that says he or she may terminate the obligation if he or she cannot fulfill it. ASC should retain the same sort of thing. If everyone's budgets all disappear, we may not be able to fulfill our obligation and he suspected that the **State office** would make us put it in there as well. That is standard government contract stuff and we may as well have it in there.

R. Spencer said that he felt it was an annual contract and would the ASC commit to something and then, later in the year, not be able to do it? **G. LaPointe** didn't think it was in there, but if the Canadians raised the issue, then it wouldn't be bad for us to have it there. **J. Trial** stated that something she learned while at the Atlantic International Chapter, is right now DFO is divesting themselves of their hatcheries and privatizing them. Mactaquac is one of the few that DFO is maintaining because they have an agreement with NB Power that says they have to maintain this. All the others are privatized. They're financially hurting for supporting their hatcheries. **G. LaPointe** said in terms of having a contract and making sure ASC has protection, he felt that the clause was worth putting in there.

G. LaPointe went on with the Project Work Plan and Project Description. Related to fish health, this item states "DFO... will ensure that the eggs meet the minimum US federal and State of Maine fish health requirements before shipment and provide appropriate documentation." He believes that this sounds like we are trying to get by. It didn't look like, in the word of the law, we are showing we are doing the best we can.

P. Frinsko said that in 8.1 the language is somewhat confusing and it might be because how things are written in NB law. It says "...and remain in force until formally renewed annually by April 30th of each year..." He went on to say **R. Spencer** believes it to be a one-year agreement, but if one reads it, it is a ten-year agreement, and he further believes it is a ten-year rolling agreement. The last sentence reads, "The total term of the agreement is ten years from last signing ..." So, if one renews it, it rolls ten years from there. He believes that ASC would be getting into an obligation that may not have been understood by the staff. He was not saying it was a bad idea, but if one is going to roll into an agreement that is going to renew itself for ten years, if we do nothing, were we prepared to commit those resources? The same point that **G. LaPointe** made re: 9.1, **P. Frinsko** believed the Commission needed an out if ASC is unable to meet its obligations too. He assumed that the terms of the agreement and the terms of the work plan are appropriate with the staff. He wondered how ASC would be into the project when it had to come up with \$30,000 that second year. He asked **R. Spencer** if the \$30,000 was the cost per year. **R. Spencer** replied that it is a per pool cost. The ASC is going to require, in conjunction with the contract with ASNM, which stands separately, and this proposed contract would encompass five pools. This contract proposes that ASC would subsidize three of those pools at \$10,000 per year. The reason that this wouldn't come into effect the first year is that some of those pools would be occupied by older year classes that won't exist for a couple of years.

P. Frinsko said that the agreement calls for a relationship with ASNM. What happens if that entity has problems? Shouldn't ASC have the right to designate an alternate subcontractor? He was not questioning their veracity or their good work. The \$30,000 seems to be payable when the eggs are delivered. **R. Spencer** agreed that was correct. As long as ASC makes that payment and pays for the eggs that were reared at the time they are delivered. Maybe ASC is okay in terms of the recovery of cash, but happens if we lose the volunteers that we have?

R. Spencer said that ASNMs financial obligations would be half what ASCs is and ASNM has been providing as part of that concession. We, in this contract, proposed that the State of Maine would subsidize in full the cost of operating those pools. He is not entirely convinced that a default on the contract between ASNM and DFO would impact ASCs contract. They are getting 800,000 to one million eggs and we are doing the same. They are linked because we are using one pool. **R. Spencer** stated that ASC would have a separate agreement with DFO. ASNM has already signed and entered into an agreement with Mactaquac. **G. LaPointe** asked if the annual formal renewal was necessary? **P. Frinsko** said that if there is a step-out clause that allows ASC to withdraw from the agreement in the event we do not believe we can meet our obligations, is that satisfactory for ASC at the executive level? **L. Perry** suspected that when the Attorney General's office gets into it and starts adding boilerplate language, there would be a clause there that says, "subject to the annual budget response."

F. Kircheis said that under the Project Description, it speaks about what fish are going to be used and it says Serpentine fish. What is the reason for that? **R. Spencer** stated that the DFO describes their earliest bred fish as Serpentine fish. The feeling is based on the Serpentine River the fish come in early because they have further to travel up river. He was not sure that had been confirmed genetically, but any reference to Serpentine fish just means early run St. John River fish. **F. Kircheis** asked if they would be F1s or F2s. **R. Spencer** said they would be F1s, sea-run adults. They select them on the same premise and it meets our program to come in early because they have a longer trip up to the Aroostook River. **F. Kircheis** asked if this is because there aren't any so-called Aroostook fish that they know of or can identify? **R. Spencer** replied no. To use the Penobscot as an analogy, one can't really tell Piscataquis River fish from Mattawamkeag River fish. **F. Kircheis** said, so when DFO says they are using Serpentine fish, they don't really know, they are just using early-run St. John River fish. **R. Spencer** agreed. The discriminating criterion is the time they arrive in the trap.

P. Frinsko asked if there was a need for ASC to have a separate agreement with ASNM? **L. Perry** thought that perhaps the better way to do it – and it may be too late to do it that way now – would be for the Commission to enter into an agreement with NB and it would let us, in turn enter into a sub-agreement with ASNM as opposed to this? It might be too late to go back and see if there might be a better way to do it, but it is set up in such a way whereby all they're doing is transporting our fish under agreement that may facilitate an arrangement for future reference.

There were several minutes of discussion about the draft agreement with Atlantic Salmon for Northern Maine that were lost due to problems with the tape recorder.

ACTION ITEM: Fred Kircheis to take the MOU with the Hatchery at Mactaquac to the Attorney General's office, along with comments raised by the Commission members, for an opinion and to report back to the Commission at the December 3 meeting.

Agenda Item 5 – Atlantic salmon Conservation Plan

H. Nichols indicated that the Atlantic Salmon Conservation Plan expires at the end of December 2002 and that the Commission has several options for regarding the future of the Conservation Plan. Those options include allowing it to expire, revising the document and or extending its end date. He pointed out that the Federal Recovery Plan would not be complete until Spring of 2003 and therefore, the Commission may want to extend the Conservation Plan at Least that long. He suggested that the Commission take formal action in extending the Conservation Plan by two years, providing enough time for the new administration to decide on the Conservation Plan's ultimate fate and to continue as a policy document for the ASC. **G. LaPointe** made the motion to extend the Conservation Plan by an additional three years. He pointed out the LWRC should also take formal action on extending the Plan as its member agencies have responsibilities under the conservation plan. **H. Nichols** will bring it before the LWRC at their October meeting.

Mike Herz was struck by the fact that the recovery draft did not have any sections pertaining to each of the individual salmon rivers. It makes it all the more important for the state to extend the plan. He would like to see some sort of a report on how the two documents are coming. **F. Kircheis** replied that the draft of the Federal Recovery Plan would be out soon and there would be an opportunity for public comment then.

THE BOARD UNANIMOUSLY APPROVED EXTENSION OF THE CONSERVATION PLAN FOR A THREE YEAR PERIOD. (3-0, MOTION BY GEORGE LAPOINTE, SECONDED BY PAUL FRINSKO.)

ACTION ITEM: Henry Nichols to discuss the extension for three years of the Atlantic Salmon Conservation Plan with LWRC at their October 10, 2002 meeting.

Agenda Item 6 – Status report on West Greenland Atlantic Salmon Fishery

John Kocik presented the report on the West Greenland Conservation Agreement (Attachment 6) because **Russ Brown** was unable to attend the meeting. **J. Kocik** gave a brief history of marine exploitation since 1947. The process that was initiated in November 2001 began with Russ Brown presenting a summary of West Greenland Fishery at the Atlantic Salmon Federation (ASF). ASF's objective is for a 5-10 year conservation agreement to suspend the commercial fishery prior to the 2002 NASCO meeting and phase out commercial fishery by providing for alternative economic activities. However, no agreement was reached by the 2002 NASCO meeting.

A commercial fishery is essentially fish that are going to major processors or other external or internal mass markets. The Local Use Fishery fish are either given or bartered to others, sold in open-air markets, directly to restaurants, hospitals, or other food service facilities in Greenland. The key point here is in all these negotiations Greenland has

always maintained their right to prosecute a local use fishery and it is something that has never been on the negotiating table.

At the 2002 NASCO meeting, the ICES forecast model gave an available quota of 167 metric tons for the 2002 fishery using previous NASCO-developed approaches. This is what came out of the ICES working group. That, along with some draft advice, goes to the advisory committee on fisheries management within ICES and they produce the actual working-group report and the management advice. That management advice was for no harvest. This is an important distinction because a lot of people bandy about that there is a quota of 167 metric tons, while the actual management advice was no harvest of Greenland non-maturing, or 2SW fish in home waters, except for in-river harvests. Immediately upon the forecast model coming out, Greenland started jockeying for the 167 metric ton commercial quota.

Through the NASCO meetings, those negotiations resulted in an adaptive management system pretty much framed like last year's was, except it went from 3 time periods to two periods. So, they have a quota ranging from between 20 metric tons, the size of the local-use fishery, to 55 metric tons. Catch Per Unit of Effort (CPUE) is used as a surrogate for abundance for that fishery.

In June, Greenland still hadn't gone through with these groups and we entered the post-NASCO negotiation phase. The North Atlantic Salmon Fund on the European side and the Atlantic Salmon Federation on the North American side led these negotiations. There was a lot of back and forth with the Greenland home-rule government. **J. Kocik's** agency confirmed that there were \$500,000 U.S. from the 93-94 buyout in a National Fish and Wildlife Foundation account. The Greenland home-rule government signed the agreement after reviewing it in July. On August 9, 2002, just three days before the scheduled opening of the commercial fishery, the agreement was brokered.

The agreement essentially removes the commercial element of the fishery. Contrary to what much of the press has said, it is a one-year agreement that is renewable for up to five years – it is not a five-year agreement. **L. Perry** asked if it just affected the commercial quota, not local use. **J. Kocik** replied that was correct. The commercial fishery is generally a little bit further off shore. One of the things that was important to everyone involved in the scientific community was trying to get this agreement time-frame before the ICES working group advice came out to kind of de-politicize anything that Greenland or the North American parties might be interested in. They were not successful with that, because the rollover date is April 25, 2003. It would be after the ICES working group has met, but before NASCO approves it so there is still a little bit of a buffer there.

The details of the agreement, as far as the parties go, are on page 3 of Attachment 6. The Parties to the agreement are Kalaallit Nunaanni Aalisartut Piniartullu Kattuffiat (KNAPK) – the Organization of Hunters and Fishers in Greenland, and the North Atlantic Salmon Fund (NASF) in Reykjavik, Iceland. Sponsors to the agreement, as far as funding sources, were: Atlantic Salmon Federation (ASF) and the National Fish and Wildlife Foundation (NFWF). The United States footed the whole bill, essentially, for this in the first year. It comes out to \$275,125 USD. In the other years of the agreement it will be approximately \$275,000 USD, depending on the exchange rate per year. It's around an 8:1 exchange rate and these are millions of Danish Kroner.

One of the intentions was to get economic development projects going. They have these economic development projects where 68% of the money goes. That has to be consistent with EU-Denmark/Greenland Fisheries Agreement (e.g. alternative opportunities such as fisheries or nature-based economies other than fisheries). The funds are held in a trust for these development projects. Nineteen percent is for administrative coast and 13% for direct economic relief. Where there is some hardship to people who were depending on salmon for a larger part of their livelihood, some direct compensation goes to them.

To put some of those numbers into context, go back to the graph on page one. We have gone down from a metric ton quota. In the early years of the quota, it was around 1,000 metric tons. Now we are down now to effectively a quota of around 20 metric tons, which is the capacity of this local use fishery to catch fish. So will the suspension of the fishery result in a sharp increase of US returns? It is not very likely. If we look at tagging data and also look at relative smolt production, the US fish are a very small proportion of non-maturing 1SW at Greenland. By the time this fishery is going on, they are not only off the coast of Greenland, but also Newfoundland, Labrador and Baffin Island. Again, if we look back at the quota, when we had that sharp drought during the 80s and 90s in the fishery quotas, there was no response to the US fishery to the drought. If we look at return rates, they pretty much track the pre-fisheries abundance index. This leads them to believe that most of the mortality at sea is natural; there is very limited mortality that is from this fishery.

As a note of reference, there were about 170,000 elastomer marked Penobscot hatchery smolts and only one was intercepted last year in the international sampling program. If that is bumped up to the number of fish looked at versus the total catch, there is a potential of 39 fish. Looking at the return rate of those tags, it is less than 1/200 of one percent. Most of the fish are dying due to natural causes. One of the things that has intrigued the US delegation and US scientists is that we've seen a higher proportion of North American fish in this fishery of late. It peaked in 1991 when there was about 90%. It is back down to about 67% in 2001. It is too early to know this year's fish rate. The US sent two samplers. Ed Hastings was there for two weeks, and sampled only nine fish. Crystal Holmes was there for the following two weeks, and sampled just short of 300 fish. **J. Kocik** thinks the fishery will be about on the order of magnitude of local use that it was last year, which is probably around 7 or 8 metric tons. **L. Perry** asked what percentage of fish is North American. **J. Kocik** replied that it varies from year to year from 30% to 90%, and those are the extremes. Generally it is more like 60% to 70%. It is too soon to tell for this year, however. Tissue samples need to be looked at and at the scales samples. If one looks at the working group report, when they did it with scale samples, there are confidence bars around the estimate.

L. Perry's other comment was that **J. Kocik** made the comment that returns continue to decline despite sharp decreases in the quotas. It would appear from the chart that is presented that the quotas have followed the decline as opposed to being in place prior to the population decline. It is almost like the quotas are being set after the population has crashed. If we are thinking about adult fish, and you look at the lag times and the cycle of the fish, it really looks like you're taking the adults back to about the early 1980s, and then there wasn't anything there and the quota started going down after that. It's a matter of interpretation. **J. Kocik** said that the other issue, too, is if one looks at domestic exploitation, it was higher. We were taking more fish out of the Penobscot River than we were at the Greenland fishery. There was a lot of exploitation coming out at that point.

G. LaPointe asked if there was a commitment on the part of the Canadians and the European partners to help with costs in the future? The proportion of North American fish is about 60, so that means that European is 40. As he remembered from past discussions/arguments, the proportion of US fish in that 60% is quite low, therefore, the Canadians are getting quite a lot out of this – and so are the Europeans. **J. Kocik** stated that this is the last money coming from the US and the Europeans and Canadians are very aware of this and seem to be on board for it. The worst-case scenario is for every 1,000 fish there are 12 American fish. Obviously since the Americans paid 1/5 of the five-year agreement already, we are way ahead.

M. Herz was struck by the fact that in the report the concept and portrayal of populations is not there. There is catch and there is quota. Are there models that relate to catch or quota that estimate the populations and how these quotas relate to the population? **J. Kocik** replied that pre-fishery abundance model, models the number of non-maturing, one sea-winter fish off the coast of Greenland in an effort to set this quota. The landings pretty much, unless there is a quota in place, track what the whole population is doing. We do have those numbers and that is what is used to set the quota. The number of non-maturing 1SW fish anticipated off the coast of Greenland, remove natural mortality to get enough fish back to meet the conservation spawning limits (from the Connecticut River up through Labrador), leaving surplus

for harvest and that is where the 167 metric tons comes from. It was tracking adult returns very well until 1997/1998, at which point the index started going up phenomenally and the populations kept going down, based on returns. **M. Herz** asked if the 20 million metric ton quota left a sustainable population? **G. LaPointe** corrected it to be 20 metric tons, not 20 million metric tons. **J. Kocik** replied that the objective of that model is just that. Basically, the model was tracking the population, everyone was happy and the quotas were going down. But when the model turned around, all the salmon-producing countries, the US, Canada and the European Union, wanted to start reworking the model. It is obviously decoupled and there is something wrong with it. Greenland and the consumptive countries have said that just because the model turned around and it has decoupled, let's give it a couple of years. Now we are at the point where we've given it a couple of years, they are trying to refine the model. **J. Trial** stated that it was proposed at last year's ICES meeting that there be an inter-session meeting to work on the model and try to revise or create a new model this winter. That was an initial offer to hold such an inter-session by **Russ Brown** on approval of his supervisors at NOAA fisheries. Right now it is at NOAA Fisheries being decided if this will happen or not. **J. Kocik** stated that NOAA Fisheries was trying through the ICES diadromous work group, and will find out when Chris gets back, if we put money into ICES to do that or another workshop and that is the idea that the US delegation is pitching, is a study group.

George Pr  tat wondered if there were going to be future reports on the economic development projects that are going to be taking place. **J. Kocik** assumed there would be because there is accountability built into having to know where the economic development went, so there should be reports available. He will ask Chris LaBelle, who will be taking over the international stuff, to check it out.

Agenda Item 7 – Atlantic salmon sport fishing issues

Lou Horvath explained that he hadn't been to very many meetings since his retirement, mainly because ASC didn't exist as it does today and the meetings were quite informal. He thought there would be a chance for a bull session where he could ask some questions and get some good answers back and now he appeared to be in a den of experts. He always uses the term experts and imperts. Routinely, experts pass over common sense opinions by imperts yet much of the things successfully done in this world have been done by imperts and he professed to be an impert. He knows it is tough to come before a group of experts as most here are well versed in salmon issues. **L. Horvath** went on to say he had a couple of things to go over. His object was to have the board tell him how to go about opening up the fishery on the Penobscot River.

L. Horvath read an article by Dr. Grilse, a.k.a. Tom Humphreys of Labrador. He said, "...today we have got to find measuring tools and allow participation to sports fish, while at the same time rebuilding depleted resources." He has always advocated that catch and release is only another tool and should be regulated as far as seasons. "Those who lobby against catch and release need to realize that the alternative is closure, which is detrimental for the following reasons. It allows a continuous sports fishery. Acts as a deterrent against poachers and other incentives required for volunteer participation and many initiatives to ensure its future. Also, in many cases, the only means of collecting data since anglers are without a doubt the best barometer a river can have. They have eyes that don't lie. It continues to provide an economic contribution to the region. And an important component is to add and respect the value of any natural resource." And it is signed by Dr. Grilse.

L. Horvath continued to read several things from Malcolm Coulter. **L. Horvath** did not read the letter verbatim, but they are Dr. Coulter's thoughts about fishing salmon on the Penobscot River. He says that the river should be managed as a fishing river until such time as the two or three dams are removed and leaves up-stream and down-stream passage for salmon. Naming the Penobscot as a wild salmon restoration river based on a model on overcoming man-made social and economic problems that affect the fisheries based on the premise stated at the time there were adequate up-stream passages. That was in a report on the Penobscot River by Everhart, Watson and Cutting in 1955 and another by Everhart and Cutting in 1967. Over the past several years, tens of thousands of dollars have been spent on stocking with no concrete programs toward restoration. Some of the recommendations that the Penobscot be managed as a catch and

release salmon river until such time as dam removal or significant improvements are accomplished. After that is accomplished, to manage it as a restoration river. We need to stop saying restoration of the sustainable stocks. Dr. Coulter says he doesn't know of any river, including most of the ones in Canada that are not stocked in some way and has a part of a proposal for a catch and release. He suggests carefully pulling out restrictions. We have talked about this to all the clubs and again, **L. Horvath** reiterated, that he was there as an individual. He has been to all the clubs, been president of two of the major clubs on the river, vice president of the other one, and he was at the meeting as just an individual. He read Dr. Coulter's letter further by saying certain restrictions, such as catch and release, not removing them from the water, barbless hooks, limited hook sizes, no nets except the cotton variety. Some sort of rationing of the sport – if you catch a fish and release it properly, you are then off for the day. Crafting dates that a boater can fish, if there is a license. Season dates such as May 15 to the end of June. Some other recommendations that **L. Horvath** has heard along the river are April 1 to end of July. The letter goes on to encourage Mr. Horvath to put down the sledge hammer and be a nice guy. Mr. Horvath said he was trying very hard to do that.

As one gets older, one can think in years ahead, but his calendar only goes six months ahead. The Atlantic Salmon Federation never asked for the closure of the Penobscot River and neither did the federal government. This was a thought of the Commission and the plan of Fred Whoriskey and Bruce Tuffs of Canada. Both have written extensive articles recently, which he has published in the newsletter, talking about catch and release and releasing them properly. ASF is running a contest year after year. This one is "Enter ASF's live and release contest." They say that if done properly, there won't be the mortality; maybe a fish or two. **L. Horvath** was asking the Board to tell him how to open up the Penobscot River. ASC is removing 500 fish for brood stock. The clubs are struggling and while he doesn't want to cry the Blues, the groups are just trying to hold themselves together. These people are the people who have supported Atlantic salmon restoration for years and years. They have been trying with money raised at banquets over the years.

G. LaPointe replied there have to be fish to have it happen. We have all been involved in the ESA listing process which states every fish counts. There is mortality associated with catch and release fishing; so to promote activities that cause mortality doesn't make sense to him right now. The numbers in the Penobscot River haven't improved in the last number of years. It struck him that if we start saying that catch and release fishing is OK, but DMR put in a regulation to restrict stripped bass fishing south of Veazie because of secondary impact on salmon, he'd have a hard time holding that together if there wasn't a prohibition on catch and release fishing as well. If we start opening it up, he believes it will quickly increase the mortality on salmon and he doesn't see that as a viable alternative right now. He recognized that if there are groups tied into a single species on a single river, that it would impact those groups. However, without the other things we are doing, he didn't see it in the near future.

L. Horvath stated that stripped bass can be fly-fished, so why couldn't it be opened up to fly fishing all the way? He said he didn't want to worry about details; he just wanted some direction. For a river that is not a DPS river, it just doesn't make sense. We talk in terms of the state with the shortfall of monies and all that. We are really taking away a few million dollars from the economy of the area and that is an important thought. **G. LaPointe** said perhaps they were shifting into something else and didn't want to argue economics because he wasn't qualified to do so. **L. Perry** said there is no secret there is a difference of opinion among the board and a lot of individuals and respective agencies as to what this issue really is and what the impacts all are. He believes we are constantly undergoing change in the way people look at fisheries management and salmon management. He doesn't think the final chapter has been written yet on the Penobscot fishery. The Federal services came out and left the door open that Penobscot fish could be listed. That determination, as yet, hasn't been made. He doesn't know when it will be. Until there is some final decision made as to what the true status of the Penobscot fish are, he believes the board is pretty much held captive to that cloud that is hanging over us because of the Federal Register and the notice there that it is still under consideration that the Penobscot fish would be listed as an endangered species. His personal opinion is the whole concept of conservation stocks and restoration stocks are more alike than they are different just because of the nature and the history of the stocking law that is taking place. Until that whole issue is resolved as to whether or not it is going to be listed, he

wasn't sure that he could totally agree with **L. Horvath** that we weren't asked to close that fishery. **L. Perry** said it certainly was implied that we needed to close all fishing in the State of Maine. The Recovery Plan, he didn't know if Mr. Horvath had had a chance to see it, even goes back to reopening the whole issue of sport fishing again. Not just on salmon fishing, but on any of our cold water fisheries here in the state and some of these drainages. He was not sure we are any further ahead than we were three years ago when we closed the season. A lot of those questions are still out there. They're still looking at the impact fishing is having much like the impact commercial fishing impact. He wished that they could say there is no effect; let's allow sports fishing.

L. Horvath said that ultimately, if the decision were to be made to open up the Penobscot River to sports fishing, catch and release, that kind of thing, would it be the Board that would vote for that. **J. Trial** stated there needs to be some criteria to decide when to open a fishery, regardless. It would seem to be appropriate to sit down with representatives of the salmon clubs to talk about and work out that criteria together, rather than having the Commission decide the criteria as "experts" and then taking it to the clubs to be beat up with. Why not all be involved in determining those criteria? It might be no fishing in the mornings when the water temperature is whatever. What are the right criteria to allow a fishery for the warm water conditions we know we are getting in early June? How do we manage around that when it comes time to open a fishery and how many years of what good terms before a fishery is acceptable? It seems like we could sit with the clubs and work on those criteria before we find out when it can happen. If we have the criteria in hand, we'd be better off.

L. Horvath said to **F. Kircheis** that he'd met with Gary Arsenault last year. He asked if they'd ever had the meeting. **F. Kircheis** said that yes, they'd had the meeting and there were probably 40 to 45 people there from the various clubs. It was at the Eddington Club. They talked about all these same issues. About fishing without any hooks or flies with small hooks or flies with one pound test leader so they would break off. There were all sorts of variations on how to keep the anglers interest up – which is what it amounts to. **F. Kircheis** certainly doesn't think that the importance of anglers' interest is insignificant at all. They have been a major part of the Maine salmon program for a long time. By not having a participatory salmon fishery, we are loosing that support. He understood that. Given the biological status of these fish, he didn't see, at this time, an alternative that he could recommend.

L. Horvath stated that if people would fish like he does, it would be great. He fishes with just a fly on the line. He does tease fishing. He thinks that is the most exciting part about raising a salmon. He thought the Board should consider it. He felt the ASC should give a little back to the salmon fishermen. Ultimately, ASC works for the fishermen. He was watching the people running for governor and number of them were saying that we couldn't let the federal government come in here and tell us what to do and not supply us with the cash to it. He said he's been saying that years and years. When the government said that on Special Education, they gave us a lot of money, but then they took it all away. Now a lot of state money is spent on special education. Lets do what we want to do; what's best for the state. The best thing for the Penobscot River is to get some fishing out there. Even if it's just tease fishing; there needs to be something. He asked that the Board think about it and he would put together some things and send the Board some material. He thanked the Board for their time.

L. Perry stated that the Board appreciated Mr. Horvath coming down. **G. Pr  tat** said he thought he might have something that would help Mr. Horvath. In Quebec, each river is individually treated by biologists. They make a count in June on the number of fish returning because for each river they need a certain number. They decide at that time whether to either close the river, close the killing of all live salmon and allow grilse to be killed or go to catch and release. The reason they can do this is that they don't have the DFO, which they are very happy about. Put that into the Penobscot. What would the take of returning Penobscot fish have to be before the Board could consider opening a catch and release fishery. **G. LaPointe** said the thought that is what Joan was talking about by developing those criteria. **L. Horvath** stated that he knew that in looking at the units and square meters and all, ASC is taking 500 fish and that's allegedly going to do the job. **F. Kircheis** stated that the fish that are coming back are only coming back because the ASC takes fish out to the hatchery. Almost all the fish ASC has coming back is the result of what ASC is stocking. **L.**

Horvath said he understood that and said that is why it is not a self-sustained river and it won't be for a long, long time, if ever. **J. Trial** said that the ASC needs to sustain the broodstock to continue to produce smolts. The 500 number is capacity for the hatchery for smolt production.

M. Herz said that ASC does need to sustain the fisherman. Jim Martin, the man who put together the salmon plan for Gov. John Kitzhaber, MD, of Oregon, said the success of the recovery will depend on winning the hearts and minds of the people in the communities. He believes that too often the Commission forgets this, and this is one of the reasons he raised the issue of river-by-river presentation in the recovery plan. Unless you involve people and create a lobby that gives a damn about these fish, it is going to become increasingly difficult to get allocations of funds to help do the work of the Commission to save the fish. He thinks the reason that those from the public sector come and lobby is that they are not always convinced that the Commission is hearing the plea to make sure the decision making and the work the Commission is doing gets translated so that it will involve and gas up the people in the communities that are going to be the lobbying group that is going to make this thing go.

G. LaPointe stated that he deals with that everyday in the commercial fisheries and he's involved in ground fish as well. DMR thinks about that everyday. With this particular issue, **George Pr  tat** talked about the DFO. We've got the ESA (Endangered Species Act). This is an incredibly powerful piece of legislation that the Canadians don't have, and they probably celebrate about that sometimes as well. If one looks at the standards and the impact we've had on other communities, our entire salmon plan was involved in trying to pay attention to the people and the watersheds and the communities in Maine. **G. LaPointe** believes that in fact the Commission does do that. It is not easy. Nothing about this has been easy. It has involved sacrifices on the part of people in our state and has turned the way we do salmon in Maine on its head. The ESA has also brought us money in terms of the Federal government. We would probably get far less if the salmon weren't listed. What the Commission tries to do is pay attention to our job to the people and our job to the resources at the same time. He believes that is what we see the result of. Because of that job to the resource, he doesn't see the numbers, and he wishes he did, to say that it was a time to increase mortality on the Penobscot. Not being a fly fisherman, he didn't know how Mr. Horvath fished with a hookless fly and he would like to see that sometime. However, that's the disconnect he sees and he thinks that **J. Trial** is right. We take 500 fish for broodstock and we have to do that because that's the engine that gets fish back right now. He suspects, though he hasn't seen the numbers in a while, that the number of fish getting back into the Penobscot isn't filling those habitat units anywhere close. The criteria would be some proportion of that. If you get 1,000 units, you get enough fish to fill 250 or more. But those are the kind of criteria he thinks we'd have to get into and he didn't think we were close to that point.

J. Trial stated that in terms of what has been allowed for escapement this year, 300+, most of which were grilse, most of which are male and probably aren't going to produce a lot of eggs.

L. Horvath went on to say that the last quote from Malcolm was, "...don't be like the Shakers and just die away." Fishermen aren't going to just die away. Out of what we are doing, we are maintaining some interest. He believes that the Commission is doing their best, but he wanted the Commission to listen to the fishermen. **G. LaPointe** invited Mr. Horvath to come back and talk some more. **L. Horvath** said he knew Mr. LaPointe wasn't a fly fisherman because he didn't know how to fish with just a fly. He should a photograph of a group of people stating that it was a program he started in 1995, which was giving farm salmon to a person who would catch and release it properly. It was great. He thanked the Commission members for their time.

L. Perry wanted to say one last thing in response to Mr. Herz and Mr. Horvath's comments. He believes everyone at the table recognize that fishermen and sportsmen in general, have been the reason we have conservation programs and the reason we have many populations of fish and wildlife in the United States and in Maine. In some respects, certainly the Endangered Species Act has a lot of good points to it. However, in following what has happened to the services fisheries program and the fact that there isn't that broad base of support anymore because it has gone more to endangered species and although there are people who would like to have species listed, there doesn't seem to be that

large a vocal support for restoring those species. It seems to be that that commitment leaves when we get things on the list. He understands where these folks were coming from as far as having the incentive. He appreciates the effort made to keep the clubs together and he would certainly hope that at some point in time that whatever is holding the populations back, we see the change in environment, sea conditions, whatever it is and we start to see that return. As he said before, it probably isn't going to happen soon. If we can do as **J. Trial** suggests and start putting some criteria together so that there will be some agreement on where that is going, it will be great.

L. Horvath invited everyone to the Craig Brook dedication. **F. Kircheis** stated that he would be there because he is giving a talk.

M. Herz said that he hadn't seen any financials on the status of the grant program that was being run. He understood that the funds were almost completely expended. It seemed to him that there ought to be a need, politically, to get the batteries recharged so that program can continue. He asked that either now or at the next meeting, there be a report of the status of that program or future plans for attempting to get additional funds? Also, he'd heard a rumor that the Executive Director of ASC is bailing out just because he's reached a certain age and that it will happen between now and the next meeting of the Commission. He wondered what the plan was and what the Commission is going to do in terms of replacing the irreplaceable Mr. Kircheis.

F. Kircheis stated that he would sit in that chair one way or another until the end of this calendar year. **L. Perry** asked if there was a need to wait until the next meeting to get an update on the grants or was it known now. **F. Kircheis** told Mr. Herz that the money is all spent. The \$750,000 grant fund is all gone. If it hadn't been spent, the money would have evaporated, by statute, on July 1, 2002. ASC was able to distribute all of the funds very effectively prior to that point. However, ASC has in the budget a certain amount of money available to continue to assist the watershed councils, etc. Although those monies have been diminished by the budget situation, ASC still has some funds. If Mr. Herz had a particular need, he should contact **H. Nichols** who is managing those funds. He suspects that if ASC went to the legislature this year and said oh by the way, we'd like to have another \$750,000, you could hear the laughter all the way to Head of Tide.

Agenda Item 8 – Any other matters brought before the board

F. Kircheis said that the Board had been presented with a draft hydro policy document at the last board meeting. Some modifications had been recommended and Norm Dube made the modifications and **J. Trial** will discuss them briefly (Attachment 7). **J. Trial** said for reference it is 9C on page 16 of the June 11, 2002 board meeting minutes and it is appendix 9. The board requested that **N. Dube** send a markup copy that showed additions and deletions, which he did within three days of that meeting and then again earlier this week so that the board could refer to that. He received comments back from **L. Perry** in regard to one item relating to the dam removal. She believed he addressed **L. Perry** comments and sent him back a note. This has not much changed over that previous one. It was her understanding that the board wanted to see how **N. Dube** had made the changes. She saw no sense in reading or reviewing that, but said that the requests were met and to tell **F. Kircheis** it is OK to sign it.

L. Perry asked for comments on the draft. **P. Frinsko** said that from his point of view, he recognized that the Commission does not control hydropower in this state. There are those in state government who never met a dam they didn't like. There are others who never met a dam they did like. He thinks the board has probably gone as far as it can since it is essentially only an advisory body with respect to hydroelectric facilities. So, any kind of river blockage, the ASC doesn't have any authority over and can only act as an advisor, lobbyist, what have you? He wishes the commission could have a stronger statement in the policy with respect to dam removal.

G. LaPointe admitted to being a neglectful reviewer having not reviewed it at the time. Under Instream Flows (page 3) "Stream flow has both biological and aesthetic considerations." He asked that the sentence be removed. Yes, obviously

stream flow has aesthetic considerations, but **quantifying** **considerations** is problematic. **J. Trial** agreed to remove the sentence. Also, under Mitigation (page 4) it talks about mitigation, but then it talks about compensation. Shouldn't that be mitigation? **J. Trial** agreed. There were two instances of that. The question was asked if, after **F. Kircheis** signs this, would there be an impact on the Winterport Dam? **J. Trial** said that no, because the Commission has been acting under this as much as possible and has been advising toward removal. **F. Kircheis** said that the ASC has already written letters recommending the removal of that dam. If this had been in force at the time ASC had gone through the Winterport Dam situation, would this have influenced the litigation or the town's approaches to the dam? **F. Kircheis** said he didn't think there would have been any effect. **J. Trial** said that this is policy overseeing how the ASC staff acts on certain requests and obligations associated with hydro dam confrontations. **Ed Baum** asked what the position of the Commission was. She replied that DEP and FERC are the two major departments. **E. Baum** said FERC recommendations in the case of the Winterport dam are being ignored. **J. Trial** said that the town did not ask ASC for a recommendation. **E. Baum** believes that the people in Augusta foster or encouraged the removal of a dam such as the one in Winterport. **F. Kircheis** stated that the letter he had written was not a political letter by any means. It was a biological-based recommendation. In the letter, he said that the Marsh River is a documented historical Atlantic salmon river. It is our charge to restore Atlantic salmon to its historic range in the State of Maine. With that dam in place, the Marsh River has very limited potential for Atlantic salmon habitat. ASC recommends its removal.

E. Baum asked what the position was on a fish pump, for example, instead of a fish lift or a ladder or an elevator, which he understood to be one of their alternatives now at Fort Halifax. **F. Kircheis** replied he didn't know. The situation in West Winterport is very different from Fort Halifax. **Mr. Baum** agreed, but just wondered what the position was on the fish pump. **F. Kircheis** said he believed the jury was still out. The fish pump at Fort Halifax still needs to be analyzed. **G. LaPointe** said that the fish pump at Fort Halifax is under consideration. The FPL has said they wanted to try it and DMR has agreed to see it tried, if it is done as a true experiment. ASC isn't the only party with that lower-Kennebec hydro agreement. DMR was meeting with some of the other parties to get their views and to see if that goes anywhere. **Mr. Baum** asked if there is a fish pump being used in that capacity anywhere in the United States that the concerned parties could go to see how it works. **G. LaPointe** replied he wasn't aware of any. **Mr. Baum** said he'd seen folks pumping fish out, alewives, menhaden, and that kind of thing, and he understood that they are now transferring live fish in Alaska, Atlantic salmon up there, and they can transport them alive because they are filleting them fresh. She says that, no, the pump does not kill fish. **G. LaPointe** stated that the jury was out on what the pump will do. Again, in discussing this, it has not been an easy discussion, rather than saying it will kill fish or it won't kill fish, let's find out. That's the agreement they did. It is just a conceptual agreement at this point. How do they attract fish? How do the fish do through the pump? Things of that nature. **E. Baum** said his point was that once they put that pump in and it fails, they are going to be hesitant to take it out and replace it with something else. Either that or it is going to delay and if there is a licensing thing and it intervenes here, where do DMR and the other parties stand on preventing the re-licensing. **G. LaPointe** replied if it fails, they don't want to use it. If it works, he thinks it would be a good thing. However, nobody knows that. The fish passage facility is supposed to be in place by the first of May next year on Fort Halifax. There is almost no chance that it is going to be on time. **J. Trial** said it would be unlikely that there will be anything other than the current interim passage, which is for alewives, and it is a pump, but of a different sort. **R. Spencer** asked if that was the pump that came up from the Edwards Dam, because that passed alewives with a pump system. **G. LaPointe** said that alewives were easy. **R. Spencer** said the only reason he mentioned it was it was actually referenced as possible mortality data. He believed there were several salmon taken in that pump system. **G. LaPointe** said there have been some trout, salmon and shad have been moved through there. He didn't believe it was enough fish to say much about. **J. Trial** said that FPL was proposing a different style pump and a different style collection system. It is not directly analogist. **E. Baum** stated he appreciated the fact that it had to be a lot cheaper than trying to work out the economics of a fishway or an elevator design. He was fairly familiar with Skelton Dam project and knows what that's cost to them. There are a lot more dams on the Saco River that are interested in putting in fishways. So, if the pump works, that would be wonderful. **G. LaPointe** stated that's what they want to have happen. **J. Trial** said there were other options besides fishways. There are fish lifts that are used in Europe that haven't been

explored for Fort Halifax or in Maine either. They are expensive, but maybe not as expensive as some of the others. For small head dams, there is even a place on the Internet one can be ordered.

L. Perry said that the board has a policy before them that has basically been a revision of a couple of earlier policies. These are not major changes. He believed it was done mostly to update it. **J. Trial** said this was to bring the ASC in line with the SPOs request for overall policy changes. **F. Kircheis** said it used to say Atlantic Salmon Authority. **L. Perry** said as far as making major changes in policy direction as far as the Commissioner of the Board goes, it's more of an update. He said that **J. Trial** had the editorial changes. He noted that there was a deletion on the first page, first sentence. The word established was dropped someplace. The only other suggestion he would add to the other comments is to reorder the sentences in the last paragraph. Moving the last sentence to the first.

G. LaPointe moved that the Hydropower Dam Policy be approved as amended. **P. Frinsko** seconded. Passed unanimously, 3-0.

L. Perry said although the meeting was at the last item, adjournment, he felt the board would be remiss if it didn't mention Charlie Shoppee. He volunteered many hours to Atlantic salmon in Maine and to the Craig Brook Hatchery. He passed away several weeks ago. He didn't know what would be appropriate or fitting for the group to do, but it seemed something should be done in recognition of his service to Atlantic salmon over the year. **F. Kircheis** stated that the staff sent a card to his survivors on behalf of the ASC. **J. Trial** asked if there was a reasonably appropriate volunteer print that could be sent to the museum in Charlie's name. Maybe the landlocked salmon print. Or maybe an Atlantic salmon print from either Arthur Taylor or Tom Hennessey? **George Prétat** offered to donate a print and the board would take care of framing. The board thanked him.

ACTION ITEM: Joan Trial to have framed and have a plaque made for the print donated by George Prétat.

Agenda Item 9 – Adjournment

The meeting was adjourned at 3:08 p.m.